G. L. BLACKSTONE & ASSOCIATES LLC

M E M O R A N D U M {D R A F T}

TO: **Real Estate Committee Co-Chairs Patricia McDow & Chuck Lesnick**

FROM: **G. Lamont Blackstone**

DATE: **April 14, 2008**

RE: **Review of the Revised TIF Feasibility Study Draft for the SFC Project**

This report provides my comments on the revised TIF feasibility study submitted by the Applicant in February 2008 and required under the Municipal Redevelopment Law. Comments from my memo dated December 7, 2007 are incorporated herein and italicized for comparison. My current comments appear below those items in each numbered section of each of the captioned topic areas. In addition, an executive summary is provided in which I provide a synopsis of the adequacy of the Applicant's response to the items previously identified in my December 7th and December 17, 2007 memos as incomplete. Also, a recommendations section is incorporated at the end of this memo.

<u>Executive Summary</u>

A synopsis of my review of the Applicant's revised document is summarized as follows:

- The revised TIF feasibility study (excluding the draft submission of the preliminary plan) is a considerably improved document.
- Comments raised regarding the blight findings have been largely addressed.
- The market analyses for the retail, office, residential and hotel components provide stronger evidence and arguments for the marketability and feasibility of those components.
- Comments relating to the parking analysis were not addressed within the body of the TIF study but are partially addressed in the pDEIS. The Applicant is also conducting an additional parking study the scope of which I have reviewed.
- Information has recently been submitted to assist in verifying the Project financial gap and determining whether a but-for test can be met for authorizing public sector investment. I am in the process of reviewing that information. Some limited information is provided in the TIF study on comparable TIF bond issues proposed in other jurisdictions.

- Revised TIF bond projections have been provided based on a more conservative estimate of borrowing rates. However, the level of coordination between the Applicant's respective market analysis sub-consultants and the Applicant's TIF consultant (MuniCap) is unclear. Likewise, although coordination between the City Assessor's office and MuniCap is reported, the scope of this coordination is unclear. Also, the revised TIF bond projections still incorporate assumptions that are deemed to be aggressive.
- A discussion of project risk factors and timing issues/constraints has not been adequately addressed.
- My analysis of information submitted by the Applicant detailing the economics of the ballpark facility concludes that it impairs the feasibility of the Project. The TIF study doesn't yet provide an adequate argument as to why the ballpark should be included as part of the development program. More information is needed regarding the potential benefits.
- Although an adequate case has been established (subject to addressing certain incomplete items) for the establishment of a TIF district in support of the Project, the TIF study falls short of establishing the viability of a TIF bond issue of the magnitude shown in the revised projections ($187 mm). I will attempt a preliminary analysis based on the information provided to assess the magnitude of bond funding which the Project might support and could be authorized by the City Council within acceptable risk parameters. This analysis should be reviewed by the bond underwriters and reviewed by the Applicant's TIF consultant and could be subject to upward or downward revision. However, this would not be a substitute for any subsequent analysis which would be done by an independent feasibility consultant retained by the City (and approved by the Council) in connection with the requirements of a bond offering.

Introduction

1. *The estimate of the total costs of the infrastructure improvements should be updated based on the work of the Bluestone analysis. Those estimates exceed the $160,000,000 cited on page 1.*

This comment has been addressed. However, the projected construction costs of the infrastructure improvements require careful and ongoing monitoring inasmuch as they affect any deemed funding gap which must be bridged by public sector investment.

2. *Incorporate data regarding the actual deficient condition of the current road and utility systems. For example, opinions from the City's engineering staff or consultants should be cited regarding the current condition of utility systems (e.g., stormwater and sewer) and why they are inadequate for the proposed development or any alternative development in downtown Yonkers of significant scale.*

This comment has not been addressed. Although detailed estimates have previously been provided of the non-parking infrastructure improvements **proposed** in connection with the Project, there is no narrative or synopsis within the TIF study which describes the inadequacy of the current non-parking infrastructure systems (e.g., stormwater, sanitary sewer and roads).

Therefore, prospective users of the TIF study (e.g, the NYS Comptroller's office) are left to review the DEIS for details regarding why infrastructure improvements are necessary.

Blight Findings

1. *Portions of the study area were previously the subject of blight findings under the Getty Square Urban Renewal Plan and the Riverview Urban Renewal Plan. Provide details regarding the basis for those previous findings and whether area conditions have significantly changed since those previous findings.*

This comment has been addressed.

2. *Additional comments on the blight findings will be submitted in a separate memorandum.*

The supplemental comments in my December 17, 2007 memo have been adequately addressed. Therefore, the Applicant has established blight findings in connection with the requirements of Section 970 of the Municipal Redevelopment Law.

Tax Rate Neutrality

1. *In Section V of the TIF study, the developer responds to previously cited public concerns regarding the potential for property taxes to rise on non-SFC properties as a result of establishment of the proposed TIF district. It should be clarified what level of physical renovations or physical improvements to non-SFC properties within the district would trigger reassessment and subsequent property tax increases. What specific criteria would be utilized by the assessor's office for determining whether improvements to property warrant reassessment? Include the specific language from the governing ordnance regarding the assessment methodology along with illustrative examples.*

This comment has not been addressed. Although page I-92 provides a description of the approach in assessing new construction, there is no explicit description of how an existing property would be reassessed if an owner undertook improvements. If no level of property rehabilitation (e.g., subdivision of demised space, building expansion, façade improvements or cosmetic improvements) will trigger reassessment, this should be indicated. If some level of capital expenditures could trigger reassessment, an illustration should be provided regarding how the reassessment process would be effectuated.

2. *The developer should address the issue of the City's potential "moral obligation" to cover debt service on the TIF bonds in the event that the increment is insufficient. The developer should explain what has been the reaction of other municipalities in other states regarding the so-called "moral obligation." If a special tax district (such as what is used by the City of Baltimore) would not be applied here as a potential backstop to cover debt service, what would be available to provide such a backstop and insulate the City from pressures to take*

on that obligation? See further discussion of the moral obligation below in the Risk Analysis section.

This comment has been addressed.

<u>Eminent Domain Linkages</u>

1. *Comments received during the comment period for the drafting of the SEQR analysis scope indicated concerns about the application of eminent domain in connection with the establishment of a TIF district. See Comments 54 and 55 in the March 30th TIF study scoping memo. Additional clarity should be provided on this issue. Explain the distinction between City Council votes regarding the establishment of a TIF district and the exercise of eminent domain.*

This comment has been addressed. **Counsel to the City should review and confirm the last sentence in eminent domain section of Section V of the TIF study. This asserts that the City already has the power to condemn properties located in the Getty Square and Riverview Urban Renewal Plan areas.**

<u>Retail Component Market Analysis & Competitive Positioning</u>

1. *Exhibit III-3 shows a map illustrating the relative trade areas (spheres of influence) of the Project site and downtown White Plains. The map should highlight major streets and/or zip code boundaries to facilitate assessment of the trade area boundaries. Also, separate maps should be shown to illustrate the overlap or lack thereof to the trade areas for the Ridge Hill and Cross County projects.*

This comment has been adequately addressed. However, it would have provided greater clarity to indicate the meaning of the shaded areas for the Cross County trade area map.

2. *Retail Competition. The discussion of competitive retail centers that begins on pg. III-9 should indicate the perceived market positioning (e.g., mid-market vs. upmarket) for each of the cited retail centers.*

This comment has been adequately addressed. **I recommend that any subsequent approval of TIF funding for the Project be subject to review of the proposed tenant mix and the competitive positioning of that mix of targeted merchandise categories against the identified list of competitive centers.**

3. *Household Expenditure Potential. To facilitate review of the household expenditure projections include a table showing the household counts in each of the zip codes shown in Exhibit III-2.*

This comment was not addressed. However, it is not deemed to critical to the analysis.

4. *Required Capture of Unmet Demand. An affirmative argument is presented in the second paragraph of pg. III-21 that a "significant share of the estimated unmet retail potential could be captured at the SFC Project." More explanation is needed as to the argued influence of the site characteristics in achieving the projected market share. Is the daylighting component assumed here to be an element that will differentiate the Project from other retail centers that don't have similar features? Are there other design features that are deemed to enhance the competitive position of the SFC Project vis-à-vis other retail centers? What are these and why? What does the consultant deem to be the access features that will provide the Project with sources of competitive advantage against other retail centers?*

The response to this comment is deemed borderline adequate in that the potential synergies of the riverwalk for the retail component are mentioned in passing. The Applicant's response suggests that the ballpark will provide significant synergies for the retail component. I do not see yet sufficient evidence for this assertion.

5. *Refer to Item #1 in the Council Majority Leader Comments section of the March 30, 2007 Preliminary TIF Feasibility Study scope. The scope required information on market rent levels at other major retail clusters in the region. No such information is presented. Likewise, no information is presented by the consultant regarding the likely rents to be commanded by the SFC Project.*

This comment is adequately addressed.

6. *Refer to Item #1 of the Additional Scoping Elements section of the March 30, 2007 scoping memo. No information is presented regarding how the demographic profile of the SFC trade area cited by the consultant compares to the threshold population and other demographic requirements of anchor tenants likely to be attracted to the Project. What are the minimum population counts and average household income levels sought by big box retailers, cinemas, supermarkets and, on average, by restaurant chains contemplated as part of the retail mix? How do these threshold requirements compare to the demographic metrics cited in the ERA analysis?*

This comment is partially addressed. No data is provided regarding average household or median household income thresholds for the retailers mentioned. Also, threshold metrics are not provided for movie theaters – a proposed key component of the entertainment element of the Project.

7. *Refer to Item #4 of the Council Majority Leader Comments section of the March 30, 2007 scoping memo. Information was asked for regarding potential synergies between the hotel and baseball stadium components and the retail component. No discussion is provided regarding the specifics of such synergies. In what ways, if at all, will the ballpark create value for or enhance the economics of the retail component? In what ways, if at all, will*

the hotel component do the same? Are the synergies mutual and do they flow in both directions? What examples are there for similar mixed-use projects and what has been the experience of those projects with regards to cross-patronage of customers of one component for another?

This comment is partially addressed; however, more information is needed to justify the benefits of the ballpark.

<u>**Residential Component Market Analysis**</u>

1. *Information should be provided regarding the credentials of The Marketing Directors. Such information should include the type and number of assignments they have worked on including those in other emerging markets/neighborhoods in Westchester and the Greater New York area (e.g., The Kalahari project in Harlem of Full Spectrum Development).*

This comment is deemed less significant as the Applicant retained ERA to supplement the work provided by The Marketing Directors.

2. *Absorption. The consultant affirms that the units will be absorbed prior to occupancy in a two year pre-sale effort for each tower. What underlies this belief? What do they project as an absorption schedule? What demographic data or market data did they look at to come to this conclusion? In the aftermath of recent mortgage market conditions, are they still confident that the absorption schedule would hold? If housing market conditions during the projected pre-selling period are weak, how easily can the units be marketed as rental apartments? How strong would the market support be for a substantial repositioning of the towers as rental buildings?*

The information provided is more adequate and comprehensive than the original submission. The comment is deemed to be addressed. **However, recent market conditions warrant extreme caution and dictate careful monitoring of the viability and phasing of the residential component.**

3. *Competition Analysis. The report does not include information on what would constitute competitive projects for Palisades Point and River Park Center. An evaluation of competitive projects within the appropriate market area should be included along with a map highlighting the location of those competitive projects.*

This comment is deemed adequately addressed.

4. *The MuniCap TIF projections assumed that rents for apartments at Palisade Point would command a 15% premium over apartments at River Park Center. Do The Marketing Directors agree with this differential?*

This comment has <u>not</u> been addressed.

Office Component Market Analysis

1. *The letter leads with a statement that suggests that there is a significant imbalance between the City's proportion of the County population and its proportionate share of the commercial real estate inventory. Why is this significant? Does this necessarily suggest that there is unmet demand for additional office space? Is the broker's reference to "commercial real estate market" only referring to office space or all forms of commercial real estate? This should be clarified.*

This comment has been addressed.

2. *Also in the first paragraph, C&W suggests that the commercial market needs to grow. What is the basis for making this assertion? Are there examples of office tenants or users who were interested in locating in Yonkers but could not have their space needs met? If so, these examples should be cited in a table (with identities protected, if necessary) along with the amount of space they were seeking, when they were in the market, and what type of use they represented. Such data would be one way to provide a cogent argument of unmet demand in Yonkers.*

This comment has been addressed.

3. *The last sentence of the first paragraph suggests that the only source of competition within the Westchester office market is the White Plains CBD. What about the Route 119 corridor in Tarrytown or the 160,000 sq. ft. future office component of the Ridge Hill mixed-use development? The office portion of the TIF feasibility analysis should identify all competitive office clusters. This could be done by including as an addendum an office market analysis of the County previously issued by Cushman & Wakefield or other major brokerage firms. Including County market analyses from more than one source would bolster the perceived reliability of the data.*

This comment has been addressed.

4. *Locational Strengths. C&W asserts that proximity to a train station will be a key driver of pricing and space absorption. C&W suggests that the Project's office component is "within walking distance to the Metro North Train Station." How realistic is it that significant numbers of office employees will walk from the train station to the River Park Center or Cacace given the sloping topography between the train station and the former? Isn't the downtown White Plains office district better-connected to its train station?*

This comment has been addressed.

5. *Strength of the County Commercial Market. Data should be provided indicating the overall size of the County office market. Also, what types of firms are likely to be prospects for the SFC office components and what are their special requirements, e.g., floorplates, etc?*

This comment has been addressed.

6. *Include a map or table that specifies all of the County submarkets and their relative size.*

This comment has been addressed.

7. *On pg. 3, C&W suggests that the residential and retail components "will inevitably cause the rental rates to climb further while the vacancy rate plummets." This suggests synergies for the office component as a result of its location within a mixed-use project. While this is an accepted feature of mixed-use developments, examples should be cited of other mixed-use projects and how the marketability of the office component was supported or enhanced by residential and retail components. Such examples will help bolster the argument for the market support of the office component.*

This comment has been addressed.

8. *Projected Rents. Asking and taking rents of $35 and $30 psf are reported. Are these rent levels of sufficient strength to support the feasibility of the office component and induce new construction?*

This comment has been addressed.

9. *What is the likely absorption rate to be for the SFC office component? How long will it take to reach a stabilized level of occupancy?*

This comment has been addressed.

10. *For readers unfamiliar with Cushman & Wakefield and their authority as a source of information, information should be included in their report regarding their size in the market and their credentials. This should include comparable leasing and market analysis assignments they have conducted in the County.*

This comment has been addressed.

<u>Hotel Component Market Analysis</u>

1. *Page III-23 indicates that 35% of the 5,300 hotel rooms in the County are in facilities with 100 to 200 rooms. What is the character of the hotel stock of the remaining 65%? Is it known what proportion is in facilities over 200 rooms?*

This comment has been addressed.

2. *Is there past evidence to suggest demand for hotel rooms in downtown Yonkers? To what extent, if any, would the government center be a generator of room-nights for the hotel?*

This comment has been addressed.

3. *The June 14, 2007 letter from Urgo Hotels indicates that they would be interested in developing a mid-tier hotel such as a Courtyard. What do they see as generators of demand for such a flag? How do these compare to their demand generators for their other flags in Westchester? What process, if any, is involved in Marriott's approval of the site and the flag for this location?*

This comment has been addressed.

4. *The list of the hotel developer's current portfolio of hotels was not included. Please provide.*

This comment has been addressed.

5. *Urgo refers to Westchester as having a "dynamic economic climate and hotel market." What characteristics and features do they deem to be the drivers of such dynamism?*

This comment has been addressed.

6. *Urgo refers to the Marriott brands as being performance leaders in their respective markets. Is there data they can cite to illustrate this including data regarding how such flags compare to competitors along metrics such as occupancy rates and average daily rates? Also, for readers unfamiliar with hotel terminology please define RevPar penetration rate and the significance of the 124% threshold.*

This comment has been addressed.

7. *What does Urgo anticipate would be the achievable average daily rate for the subject hotel?*

This comment has been addressed.

8. *The summaries of the Historical Operating Results of the Comp Set and the Westchester County Market Tract were not included.*

This comment has been addressed.

Ballpark Facility Analysis

1. *Of all the components of the proposed mixed-use project, the least amount of information is provided on the ballpark in the TIF feasibility study. Although the Socio-Economic section of the pDEIS provides details regarding the projected operations, this information should be duplicated in the TIF feasibility study.*

The revised feasibility study does include a new section that provides more information; however, it does not include the pro forma shown in the Socio-Economic section of the SEQR documents which shows the line item projections of revenue and expense. As such, readers must refer to the pDEIS to review those items.

2. *The ballpark is not included in the projections of tax increment. The implication is that the intent is for the ballpark to be owned by the City or the public sector. For clarity to the reading public, this should be explicitly stated if that is the developer's intent.*

This comment has not been addressed. Both the TIF study and the pDEIS remain silent on this issue.

3. *More information should be provided to evaluate the risk profile of this component. Information on the operations of comparable projects such as the downtown Newark ballpark should be included. Such information should include, but not be limited to, attendance rates, success in attracting alternative events such as concerts, utilization factors of the structured parking, etc.*

This comment has been partially addressed. Reference is made to the operations of the stadium for the Newark Bears as a comparable. It is stated that the financial assumptions of the subject ballpark are based in part on the operating experience of the Newark Bears "as well as the unique market conditions of Yonkers." A similar statement is made in reference to the operations of the Bridgeport Bluefish. What are these unique market conditions in the Yonkers context? Are they factors that will improve the operating performance of the ballpark as compared to the operating performance of the Bridgeport and Newark stadiums? Or are they factors that serve to diminish the profitability of the operation as compared to other minor league baseball facilities?

On page III-27, the Applicant asserts that the economic viability of the ballpark is tied to the mixed-use nature of the SFC Project. This would seem to suggest that the ballpark would be more successful as a component of a mixed-use project than it would be as a stand-alone operation – perhaps because of the opportunity to share structured parking with other uses. The ballpark would provide the Project with a signature design element that would differentiate the Project from other destinations in the region. In addition, patronage of events at the facility would likely have positive impacts on the sales productivity for restaurant uses at River Park Center. Also, the stadium would provide the City with some measure of prestige value as has been the case with downtown Newark. However, even as a component of a mixed-use project the operations of the ballpark are not self-supporting. As shown in Table III. I-20 of the Socio-

Economic section of the pDEIS, the ballpark is projected to have a development cost of $45 million dollars -- $6,923 per seat. This cost estimate does not assume any allocation of structured parking costs to the sports facility. As shown in Table III. I-26 on page I-57 of the Socio-Economic section, the facility would have stabilized operations of $7,359,578 in revenues and expenses of $6,018,100 in operating expenses resulting in a net operating income of $1,341,478 to cover profit to the team owner, leasehold expenses, and real estate taxes and other occupancy charges. However, the MuniCap TIF projections do not assume that the ballpark will generate tax increment. In addition, the projected net operating income (before leasehold expenses) results in a return on total development costs for this Project component of only 3%. Again, it should be emphasized that this measure of commercial real estate return is without any allocation of structured parking costs. No development project could be built or financed at a rate of return of 3% in current financial market conditions unless it was heavily subsidized. If the ballpark were a stand-alone operation, even a separate municipal bond financing to cover the entire $45 million would not be feasible given rates for tax exempt municipal debt. The ballpark thus serves as a significant drain on the financial viability of the overall project. Therefore, regardless of whether any TIF funding is directly used to subsidize the development costs of the ballpark, the proposed level of TIF bond funding has the de facto effect of helping to subsidize a sports facility that generates insufficient revenues to finance its development costs. It is irrelevant whether the costs of the ballpark are provided by City sources or developer sources of funds. As long as the City is called upon to fund a significant portion of the overall Project costs, the effect is that a significant de facto subsidy will be provided to a component that has not yet been shown to provide significant success or synergies to the retail, office, residential and hotel components of the Project.

On page III-28 it is asserted that Yonkers has demonstrated success in attracting large audiences to events in its downtown. This statement should be supported by data involving estimated attendance figures for such events. This is particularly important since the proposed ballpark would have the largest seating capacity of any of the eight other teams in the Atlantic League. Also, data should be provided for comparison purposes regarding average game attendance of each team in the League.

Lastly, it should be noted that the use of the term "minor league" to describe the proposed operation should not be confused with Minor League Baseball which is comprised of several baseball leagues and dozens of teams that may have affiliations with major league baseball operations. The Atlantic League of Professional Baseball Clubs, Inc. is currently comprised of only 8 teams – many of which have been started in distressed cities and have been viewed, in part, as vehicles for revitalizing those cities. The league is relatively young (founded in 1998) and there are plans to expand the number of teams. The financial success of any one team will be integrally tied to the success of other teams and the League as a whole. To illustrate, the failure of one of the eight other teams will have more impact on the game schedule of the Atlantic League than a failure of a single team in the Eastern League (12 teams) or the New York-Penn League (14 teams) of Minor League Baseball.

Parking Analysis

1. *Refer to Item #7 of the Additional Scoping Elements section of the March 30, 2007 scoping memo. No information is provided regarding the impact of any green building requirements or standards on the costs of the structured parking. How much of a premium might this involve?*

This comment is partially addressed on page III-30. Since the City Council has created a Green Policy Task Force to assess pro-environment policies to be implemented by the City, it may be prudent to examine what impact the incorporation of green building elements might have on the life cycle development costs of the structured parking if it is anticipated to be owned by the City. This need not necessarily require the incorporation of standards to meet LEED (a designation provided by the U.S. Green Building Council) certification. Elements of sustainability might be achieved in the other Project components (e.g., site selection and energy efficiency), and it may be possible to incorporate sustainability elements into the garage without incurring additional costs (e.g., public transportation access and preferred parking for carpools). Conversely, the City should be cognizant of the impact that green building standards could have on Project feasibility if stringent green building requirements were imposed.

2. *The Cushman & Wakefield letter dated May 10, 2007 proposes a parking requirement of two spaces per 1,000 sq. ft. for the office component, i.e., 1,000 spaces. How does this parking requirement compare to the needs of the other components in sizing the parking facilities?*

This comment was not addressed in the TIF study but has been addressed in the Traffic Transportation and Parking section of the pDEIS.

3. *Information should be provided in the report that provides the detailed rationale for the proposed sizing of the parking garage and the number of parking spaces. The determining factors should be explained such as zoning requirements, market requirements imposed by anchor retailers, etc. Since the structured parking is the most costly component of the proposed infrastructure investment, it should be* ***definitively*** *demonstrated why the parking garages would not meet Project requirements if a smaller number of spaces were built.*

This comment was not addressed in the TIF study. However, it is deemed to be addressed in the Parking section of the pDEIS although no response was provided regarding the parking requirements likely to be demanded by anchor retailers and other major users.

Financial Gap Analysis

1. *Item #5 of the March 30th scoping memo specified certain information for assessment of the financial gap suggested by the developers' request for public sector investment. That information has not been submitted and has been the subject of continued discussion among the mayor's team, the developer, and the Real Estate Committee co-chairs. In order to*

advance the process under the Municipal Redevelopment Law to approve or disapprove the tax increment funding request and determine at what level the request should be funded (if approved), it is essential that all parties agree to a mechanism for the release of the required information that adheres to conventional fiduciary obligations of public sector bodies while addressing legitimate confidentiality concerns of the developer.

This comment has not been addressed in the TIF study. However, the Applicant has provided preliminary confidential information regarding a pro forma for the Project which is being reviewed by this consultant.

2. *The City of Baltimore provides a reasonable model for the public sector information requirements for evaluating and approving tax increment bond issues. Baltimore requires that the TIF funding must meet both a "but-for test" and a "but-why test". The but-for test is accomplished "through the evaluation of the project financial models, developer pro-forma and equity returns and an evaluation of the general risk and financeability of the project." Baltimore Development Corp., a quasi-public entity which serves as that city's lead agency for the TIF approval process, also reports that "this test allows BDC to establish that public subsidy does not unduly enrich the developer, that the project is feasible with the public investment but not feasible without it and that the developers' expectations with respect to markets and growth are reasonable and consistent with City expectations." Since SFC has previously cited Baltimore as a model of how TIF is used in past community presentations, Baltimore's underwriting process offers a useful precedent familiar to the Yonkers development team.*

See my comment in Item #1 above. There are two separate questions to be answered. First, is whether the Applicant has demonstrated that a funding gap exists and the magnitude of that gap in order to meet a but-for test for the authorization of public sector investment. Second, is whether it has been demonstrated that a bond size of the magnitude proposed in the TIF study should be authorized and, if not, what level of bond funding can be recommended for authorization.

<u>Comparable TIF Projects</u>

1. *The March 30th scoping memo (page 4, Comment 69) indicated that the study should include "examples of other comparable development projects across the nation and NYS and the level of public sector support provided for those projects expressed as a percentage of total development costs." Please supply this information. Examples might include the projects done in the City of Baltimore that have been successful in covering debt service as well as those which haven't.*

Table IV-1 provides a list of TIF bond issues of comparable scale. More clarifying information is needed. Are all four projects pending or have they been completed? If so, what has been the experience in generating increment to cover the respective debt service streams? Also, what is meant by "project value?" This should be defined. Is it a measure of the market value of the respective projects after stabilization? If so, it is not as useful as a benchmark for assessing the proportion of total project costs which the TIF funding comprises. At approximately $200 mm, the proposed SFC TIF bond issue would constitute 12% of the total projected development costs of the initial phase of the Project – based on the estimated $1,635,000,000 figure shown on page I-42 in Table I-20 of the Socio-Economic section of the pDEIS. Some municipalities such as St. Louis, MO establish a limit (e.g., 15%) to the amount of TIF funding provided as a percentage of total project costs as a matter of policy. In addition, such benchmark information may be useful for other Project stakeholders such as the New York State Comptroller and the bond underwriters.

TIF Projections

1. ***The TIF projections prepared by MuniCap should include a letter by the chief assessment officer of the City indicating that he has reviewed the projections and that the underlying assumptions are consistent with the City's assessment practices.*** *This would provide an independent opinion of a municipal officer charged with a fiduciary responsibility to the City.*

No such letter or memo is apparently provided either in the TIF study or the pDEIS. However, page I-92 of the Socio-Economic section does include a statement reporting that the estimated property taxes were developed in consultation with the City Assessor.

2. *The bond sizing model shown in the MuniCap report assumes a certain bond coupon rate (5.25%). Explanatory information should be provided regarding the reasonableness of this assumption given Yonkers financing history, current market conditions, and market pricing factors for this type of issuance. Input provided by the bond underwriters should be explicitly stated. Similar corroborating information should be provided for the reinvestment rate assumption.*

This comment is partially addressed. MuniCap has provided a revised projection based on an increase of 100 basis points (1%) in the bond coupon rate used for sizing the bond issue. While this is admittedly a more conservative estimate than previous projects, the current liquidity crisis impacting the financial markets has also affected the market for municipal debt. In such market conditions, it is difficult to assess an appropriate or worst-case interest rate. No information is provided regarding the history of pricing for Yonkers' general obligation debt for comparison purposes. Since revenue bond financings such as TIF bonds are typically priced at a premium to general obligation debt, such information would help provide a baseline for assessing the risk premium likely for the increased risk to bondholders on a TIF debt issue.

3. *Page 17 of the MuniCap report shows projected debt service coverage ratios (DSCR) for the bonds ranging from 110% in the early years to 134% towards maturity. Given the novelty of tax increment financing in New York State, an initial DSCR of 110% seems aggressive. The City of Baltimore underwrites its TIF issues based on a 120% DSCR. A lower DSCR ratio in the early years of the issuance increases the likelihood that failure to*

achieve the projected increment will result in shortfall of cash flow to fully pay the debt service in a particular year. The TIF projections might also consider the use of a tranche of capital appreciation bonds (zero coupon issues) to bolster the debt service coverage ratio during the early years of the bond issue.

This comment is partially addressed. The projections include assumptions for a developer backstop to cover shortfalls of cashflow to cover debt service. **As a condition to authorizing and underwriting any TIF funding, details will be essential regarding the nature, scope and reliability of that backstop.** For example, will the backstop be provided by a letter of credit from a major financial institution and, if so, for how long? Who would cover the costs of such a backstop? What would be the limits of funding exposure? These are among the details that would need to be addressed in any authorizing documents for the TIF funding.

Notwithstanding the above, however, the projections fail to provide conventional debt service coverage ratios during the early years of the bond issue. As such, the sizing of the bond issue is deemed to be inordinately risky for the City and it is questionable whether the issue would be marketable at the proposed level of funding. Input from the bond underwriters is essential for evaluating this issue. (This assumes that a capture cap of 75% of the projected total increment will be deemed acceptable by bond investors. Underwriting requirements could require pledging 100% of the total realized increment as a cushion to cover debt service – even though projections might show debt service being paid based on smaller amounts of tax increment, e.g., 75% of the projected tax revenues. If so, this would have the effect of <u>increasing</u> the debt service coverage ratio.)

4. *The projections presented constitute static projections that I assume represent the developers' assumption of the most likely case for the increment projections and bond sizing. This begs the question of whether sensitivity analyses of key variables have been done to evaluate the impact on the increment projections and the bond sizing. Sensitivity runs should be performed on the bond coupon rate since that effects the bond sizing. In addition, sensitivity runs should be done on the rental rates assumed on both the residential and retail components of the mixed-use project since they are the major contributors to the projected assessed valuation for the Project. The sensitivity analyses would show how much the projected increment and bond sizing would vary if the bond coupon rate was to increase above 5.25% and the rental rates came in lower on the residential and retail components. The ranges of interest rate increases and rental rate decreases evaluated for the sensitivity analysis should incorporate worst case scenarios including the necessity of leasing and financing the Project in a recessionary environment.*

This comment is partially addressed. The bond projections identified as No. 23-A and No. 23-B have been revised based on a 100 basis point increase in the bond coupon rate over the 5.25% interest rate shown in the previously submitted projection (No. 19). This is a more conservative estimate of the City's financing costs. However, it is difficult to assess whether this assumption approaches a worst-case estimate of the interest rate. The higher the interest rate the City must pay in order to attract investors, the lower is the supportable level of bond funding possible.

Input from the bond underwriters is essential for guidance regarding current and likely future market conditions.

The rental rate estimates used in projections 23-A and 23-B are unchanged from the previous submission. As such, no sensitivity analysis is provided regarding the impact of better-than-expected or lower-than-expected leasing rates on Project assessed value and, accordingly, increases or decreases in the projected tax increment. As reported on page I-92 of the Socio-Economic section of the pDEIS, "the Assessor analyzes both the property's ability to produce future income and its expenses, and then estimates the property's value." Therefore, if the Assessor has evidence that the components of the Project are leasing at rates higher than those shown in the MuniCap projections, it could translate into higher assessed valuations. It should be noted that the retail market study revised by ERA suggests (on page III-25) that retail rents of $50 and higher could be achieved at the SFC Project. Even though this estimate probably refers to smaller format uses as opposed to big box anchor tenants (which typically pay considerably less), that ERA estimate compares favorably to the estimates of $27.00 and $35.00 used in the MuniCap projections for restaurants and boutique retail, respectively.

Lastly, the TIF bond projections assume that there is no phasing of the two residential towers at River Park Center or other components of the Project. Market conditions for any single property class may make it prudent for the developer to phase a component if its market absorption is questionable at a certain point in time. This could be particularly true of the residential component of River Park Center. If phasing occurs, the tax increment will be lower in early years than projected. In addition, the Applicant states on page I-94 of the Socio-Economic section that "it is assumed that once constructed, the assessed value for the Project will not change." If this is correct, particular attention should be focused on insuring that the initial Project assessment adequately captures the value of construction since that assessed value would be fixed for the life of the bond issue. This assumption is consistent with the projections of assessed value shown in the MuniCap projections. Accordingly, the only way for the tax increment to increase over time (assuming that it is based exclusively on the value of the SFC development program) is by increases in the property tax rates applied against assessed value.

5. *The projections assume various rental rate assumptions for the retail and office space components. Has the developer received any letters of intent (LOIs) from anchor users for these components? How do the rents proposed in the LOIs compare to the assumptions in the MuniCap projections?*

This comment has not been addressed. However, I anticipate reviewing copies of any letters of intent received from retail anchor tenants. It is unclear whether any anchor tenants have been identified for the office component aside from the City of Yonkers.

<u>Project Risk Analysis & Timing Issues</u>

1. *Refer to Item #6 of the Additional Scoping Elements section of the March 30, 2007 scoping memo. Information should be provided regarding factors that could cause the proposed*

public sector subsidy to increase as well as their probability. These would include, but not be limited to, increases in labor and material costs relating to the construction of infrastructure improvements, increases in bond financing costs due to financial markets factors, the absence of other public sector subsidies contemplated by the developer, retailer demands for increased numbers of structured parking spaces, additional mitigation measures required by the SEQR process, County failure to allow the capture of their proportionate share of the tax increment, more stringent bond underwriting criteria, and failure of the Project to achieve the developer's and its lenders and investors minimum threshold returns for financial feasibility. In concert with the aforementioned financial gap analysis, sensitivity analyses should be provided to evaluate the effects on the public sector investment of the most salient project risk factors.

This comment has not been addressed. A discussion of project risk factors which could result in higher costs and increased need for public sector investment to cover the funding gap is not included. However, the Applicant does provide a statement on page I-4 indicating their intent to backstop the debt service on the bonds.

2. *Refer to Item #8 of the Additional Scoping Elements section of the March 30th memo.*

This comment has not been addressed. Since delays in advancing a project through pre-development can significantly impact project carry costs, the Applicant should highlight any incremental costs associated with delays in commencing Project construction. As development costs increase, so will any Project funding gap. To assist the Council in its review of the TIF authorization, the Applicant should also quantify by verifiable data the costs that may accrue in the event that TIF bond issuance does not occur in accordance with the timeline suggested in the MuniCap projections – regardless of whether that issuance delay is attributable to deteriorating market conditions or other factors. In addition, the risks associated with losing anchor tenants for the retail or office components due to project delays should be identified.

3. ***No attention has been provided to the potential costs to the City in a worst case scenario of a perceived "moral obligation" associated with the bond issuance.*** *It has been represented that the bonds would not constitute a general obligation issue with a legal obligation by the City to cover debt service. However, tax increment financing issued in other jurisdictions in some cases has been viewed by the capital markets as having an implicit moral backing of issuing municipalities – even in the absence of a legal obligation to cover the debt service should the increment be insufficient to do so. Should nonrepayment of the TIF debt occur, there could be a scenario in which this might have an adverse impact on the City's current general obligation debt or the terms of floating future GO debt. The City of Baltimore reports that this is a concern in its underwriting of TIF bonds although it has readily embraced them as both a useful economic development and municipal financing tool and continues to use TIF. Therefore, the Applicant should outline what protective measures (besides underwriting at an acceptable debt service coverage ratio) can be applied here to prevent the eventuality of the City having to react to reputation pressures from the bond investors and the capital markets.*

This comment has been addressed.

<u>Preliminary Plan</u>

1. *The submission of the preliminary plan in advance of the completed TIF study is premature. However, the developers' submission of this document serves to initiate discussion of the proper scope of this second study document outlined under the Municipal Redevelopment Law. Section 970-e of the MRL specifies items that must be included in the preliminary plan; however, it does not preclude the Council from adding other items to the scope.*

I will provide in a subsequent memo additions recommended to the scope to the preliminary plan after meeting with the bond underwriters. These recommendations will include, but not be limited to, guidelines for a risk management system to mitigate the risks to the City in connection with any subsequent authorization of TIF bond funding.

2. *The level of detail specified under Section 970-e for the work products in the following subsections is vague: 970-e(a), 970-e(b), 970-e(c), 970-e(e), and 970-e(f). Therefore, the cursory responses to these sections by the developer would seem to be acceptable upon proper completion and acceptance of the TIF feasibility study.*

This comment stands as is and no further response is deemed necessary from the Applicant.

3. *Section 970-e(d) requires a higher standard of response in that it suggests descriptive detail regarding the specifics of how the proposed redevelopment complies to the master plan. Accordingly, the developers' one paragraph response to address this item is inadequate. Specificity should be provided regarding the list of Project elements and features that are consistent and inconsistent with the City's comprehensive plan. This descriptive analysis should cite the specific sections of the comprehensive plan.*

The Applicant's response to this comment will be reviewed in a subsequent memo.

4. *Legal council to the City Council has previously advised that a completed environmental impact statement (i.e., FEIS) must be adopted as a condition precedent to the adoption of the preliminary plan. It would seem, however, that the other elements of the preliminary plan could be completed and accepted pending completion of the FEIS.*

This comment stands as is.

Consultant's Recommendations

The revised TIF feasibility study is an improved document although certain sections are either incomplete or inadequately addressed. In order to facilitate and expedite the Council's decision-making regarding the prospective authorization of TIF funding for this project, I recommend the following:

1. Accept the TIF feasibility study (exclusive of the Preliminary Plan) as complete subject to the Applicant submitting satisfactory responses or information on the pending or incomplete items. This can be accompanied by a Council resolution adopting the feasibility study area as a redevelopment area. This step is described in Section 970-e and can be done prior to approving the Preliminary Plan which the MRL provides for as a document that is approved only <u>subsequent</u> to the completion of the TIF feasibility study. The Preliminary Plan also must be reviewed by City and County planning agencies and/or boards. In addition, the MRL specifies a third document, the Redevelopment Plan, which can be authorized after the Preliminary Plan has been approved by the Council.
2. Meet with the bond underwriters to ascertain their opinion of current and projected market conditions for any tax increment debt that might be issued by the City. This is particularly critical given recent upheavals in the municipal bond market. Their input should be incorporated into assessing the potential sizing of a TIF bond issue, the likely terms and the recommended action strategies for mitigating risk to the bond issuer.
3. Generate a scope for the Preliminary Plan that includes any residual items that cannot be addressed in finalizing the TIF study within the next couple weeks. This might include additional revisions to the MuniCap bond projections to incorporate comments cited herein in addition to comments provided by the bond underwriters. In addition, the scope of the Preliminary Plan should include a draft risk management system that describes a series of actions and/or conditions precedent that could be incorporated into any TIF authorizing documents. A draft list of conditions precedent should be identified for inclusion into documents authorizing the issuance of the bonds. Additionally, these conditions precedent should be coordinated with Project documents such as land disposition agreements, amendments to the MDDA, anchor tenant leases, developer financing documents, etc.
4. Since the structured parking is the most costly component of the proposed public sector infrastructure investment, potential cost savings should be studied for reducing capital expenditures allocated to this component. These might include reductions in the sizing of the parking garage attributable to downsizing the Project or eliminating the ballpark. Regarding the latter, it is worth noting that the design for the ballpark is such that levels below it must bear the structural loads generated by the ballpark component.
5. The Council should support efforts of the Applicant to identify additional non-municipal sources of subsidy such as New Markets Tax Credits (a federal program), revisions to the federal Empowerment Zone boundaries in Yonkers to include portions of the study area, etc. Working collaboratively with the developer in the pursuit of such funding sources is to the benefit of the City and community since they reduce the reliance on municipal investment.

6. A condition precedent to the adoption of the preliminary plan should be the Applicant providing proof that it has obtained letters of intent (LOIs) from credit and anchor tenants for at least one-third of the gross leasable area of the retail component of River Park Center. For confidentiality purposes, the Council can rely upon its consultant(s) to verify the existence of such LOIs. A subsequent condition precedent for the issuance of any TIF bonds should be demonstration that all Project components have met commercially reasonable standards for pre-leasing.
7. Unless funding for the development of the ballpark can be obtained from a non-municipal source which otherwise would not be available to subsidize or finance other components of the Project, the economics of the ballpark will constitute a burden on the Project – particularly when combined with the subsidy needs of the structured parking and the daylighting program. Therefore, I recommend that the Council closely monitor the financial projections of the ballpark component in connection with any actions as lead agency under the Municipal Redevelopment Law and Section 970. More data and evidence should be provided regarding the potential benefits of this project element for other components of the Project (e.g., increased sales productivity for River Park Center restaurants and data supporting premium pricing on the residential units). In addition, information should be provided on the financial performance of the Bridgeport Bluefish team including the level of subsidy required by that organization to achieve breakeven and profitable operation.
8. The Applicant and the Council should collaborate on drafting a realistic project schedule based on an assessment of the current status of the Project and the key milestones which must be achieved in order to address their mutual requirements and objectives. This schedule should incorporate realistic target time frames for a project of this magnitude and complexity and allow for proper implementation of the SEQR process and the Municipal Redevelopment Law process for evaluating and enacting tax increment financing. However, the Council should seek avenues, where possible, to compress time frames so as to minimize the risk of Project exposure to rising construction and financing costs and anchor tenant withdrawals affecting the retail and office components. Particular attention should be directed towards the status of anchor tenant leasing of the shopping center at River Park Center since retail components tend to be the primary drivers of mixed-use projects. Time is the common enemy here of both the public and private sectors.